

COMMONWEALTH OF MASSACHUSETTS

BARNSTABLE, ss

SUPERIOR COURT DEPARTMENT

Docket No. 1672 CV 00467

CHRISTINA STEVENS, TRUSTEE OF
THE LIGHTHOUSE REALTY TRUST

Plaintiff

V.

TOWN OF BOURNE ZONING BOARD OF
APPEALS, ET AL and JAMES F.
MOLLOY

Defendants

AFFIDAVIT OF JAMES F. MOLLOY IN SUPPORT OF

MOTION FOR PRELIMINARY INJUNCTION

I, James F. Molloy, of 16 Tabor Place, Brookline, MA 02445, on oath, depose and say:

1. I am the landowner Defendant named in this action.
2. I own a single family residence located at the intersection of Lighthouse Lane and Westview Street, Wings Neck, Bourne, MA.
3. I use this residence as a vacation home for my family and me.
4. My property is located across Lighthouse Lane from the property containing a lighthouse and keeper's cottage owned by the Plaintiff.
5. The Plaintiff's use of her lighthouse property as a wedding and corporate event venue is the subject of this action and has been the subject of other zoning enforcement actions involving the Town of Bourne since 2013.
6. The locations of the Plaintiff's property and my property are shown and marked on the Bourne Assessors Map attached hereto as Exhibit A.

7. This neighborhood, located at the tip of Wings Neck, is small consisting of the lighthouse and keeper's cottage plus 13 other mostly seasonal homes. There is one way in and out and each trip passes directly in front of my house.

8. Trees are windblown and scarce in the neighborhood.

9. The prevailing summer winds are southwest meaning the lighthouse is upwind of my house and most other houses in the neighborhood.

10. The Plaintiff does not occupy her lighthouse or keeper's cottage.

11. The Plaintiff rents her property for rental terms advertized as a minimum of 7 days.

12. Since 2005, the Plaintiff has advertised and, on numerous occasions, actually rented her lighthouse property for weddings and corporate events.

13. All of Wings Neck, including the Plaintiff's property, is zoned for residential use.

14. No part of the Plaintiff's property nor any part of Wings Neck is zoned for commercial purposes that would support renting the Plaintiff's property for a wedding or corporate function.

15. The Decision of the Bourne Zoning Board of Appeals voted on September 7, 2016 being appealed by the Plaintiff in this action found that the Plaintiff's use of her lighthouse property for the conduct of weddings and other functions by third parties who pay the Plaintiff for such use of the property is a violation of Bourne zoning regulations and must cease.

16. After bench trial, the Decision of the Superior Court, Fishman, J., dated November 28, 2018 upheld the Decision of the Bourne Zoning board of Appeals.

17. The zoning decisions referenced above are appealed to the Appeals Court and not currently effective to prohibit the Plaintiff from continuing to use her lighthouse property as a location for third parties to rent and conduct weddings, receptions and/or other events thereon.

18. In conjunction with and caused by previous weddings and other functions at the lighthouse property, I have personally observed and heard the following from my home: from 50 to 100 guests per event; traffic and parking for many cars across from my house and on narrow neighborhood roads; car doors slamming late in the evening; large tents; vendor's trucks; portable toilets; amplified speakers and music; large numbers of event guests on the neighborhood private beach; odors and leftover debris...all amounting to serious, significant visual and audible interruptions to the pleasures of summer days and evenings for me and my family and neighbors in this small vacation neighborhood.

19. Many of the previous events have caused 3 continuous days of disruption meaning one day to set up, one day for the event and one more day for take down.

20. Being located downwind from the Plaintiff's property exacerbates the effects of noise, odors and garbage for me.

21. The season on Cape Cod is short; any day unreasonably invaded by the use of the Plaintiff's residential property as a commercial function facility is a summer's day or evening unnecessarily lost forever.

22. As of the date this affidavit is signed, the Plaintiff continues to advertise on her website that her lighthouse property is available for functions and events.

23. Evidence of events previously held at the Plaintiff's lighthouse property in the form of pictures and testimony was submitted at trial and found credible.

Subscribed and sworn to this 24 day of April, 2019.


James F. Molloy

ADDITIONAL SERVICE
 For more information, call 1-800-368-7263
 or visit our website at www.3m.com

DATE OF BIRTH: 1947

TOWN OF BOURNE
MASSACHUSETTS



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PROPERTY MAP
SHEET 45